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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

UNITED STATES OF AMERICA,)	CASE NO. CR 19-0075 BLF
)	
Plaintiff,)	APPLICATION OF THE UNITED STATES
)	FOR A PRELIMINARY ORDER OF
v.)	FORFEITURE
)	
COLLIN RILEY HOWARD,)	
)	
Defendant.)	

The United States of America, by and through the undersigned Assistant United States Attorneys, respectfully submits this Application of the United States for a Preliminary Order of Forfeiture. The property subject to the proposed Preliminary Order of Forfeiture is property seized in the investigation as follows:

- a. Apple MacBook Pro laptop, serial number C02X32LGJGH6;
- b. Apple MacBook Air laptop, model number A1466, serial number C02J2190DRVF;
- c. Apple iPhone X, IMEI number 356727087297808, and

d. Digital scale,¹
(hereinafter “the subject property”); and

e. A forfeiture money judgment in the amount of \$456.00,
(hereinafter “the Forfeiture Money Judgment”).

In support thereof, the United States sets forth the following:

On February 14, 2019, defendant Collin Riley Howard was charged by Indictment with violations of Title 21, United States Code, Section 841(a)(1) (Distribution and Possession with Intent to Distribute a Controlled Substance) (Four Counts). The Indictment also sought criminal forfeiture, pursuant to Title 21, United States Code, Section 853 (Drug Forfeiture) of the following property:

- a) any property constituting, or derived from, any proceeds obtained, directly or indirectly, as the result of such offense or offenses and any property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, the offense or offenses.
- b) a money judgment equal to the total gross proceeds obtained by the defendant as a result of the offenses.

On June 8, 2020, defendant Collin Riley Howard pled guilty to Counts One, Two, Three and Four of the Indictment, namely, Title 21, United States Code, Section 841(a)(1) and (b)(1)(C) (Distribution and Possession with Intent to Distribute Cocaine) (Count One); Title 21, United States Code, Section 841(a)(1) and (b)(1)(C) (Distribution and Possession with Intent to Distribute Methamphetamine) (Count Two); Title 21, United States Code, Section 841(a)(1) and (b)(1)(B)(viii) (Distribution and Possession with Intent to Distribute Methamphetamine) (Count Three), and Title 21, United States Code, Section 841(a)(1) and (b)(1)(B)(viii) (Possession with Intent to Distribute Methamphetamine) (Count Four), and agreed to forfeit, to the United States, the following property:

- a) Apple MacBook Pro laptop, serial number C02X32LGJGH6;
- b) Five USB storage devices;²

¹ ICE, the seizing agency, has informed the government that in addition to electronics, a digital scale was seized in the investigation. Accordingly, the government seeks to forfeit the digital scale with this Application.

² ICE, the seizing agency, has informed the government that the five USB storage devices will be returned to the defendant. Accordingly, the government does not seek to forfeit the storage devices with this Application.

1 c) Apple MacBook Air laptop, model number A1466, serial number C02J2190DRVF;

2 d) Apple iPhone X, IMEI number 356727087297808.

3 Defendant further admitted that the subject property was involved in the offenses, and thus
4 subject to forfeiture pursuant to Title 21, United States Code, Section 853, and the procedures outlined
5 in Rule 32.2 of the Federal Rules of Criminal Procedure and Title 21, United States Code, Section 853.

6 Defendant further agreed that the Court enter a Forfeiture Money Judgment in the amount of
7 \$456.00. Defendant further admitted that the Forfeiture Money Judgment constitutes proceeds from
8 Counts One, Two, and Three of the Indictment, and thus subject to forfeiture pursuant to Title 21,
9 United States Code, Section 853, and the procedures outlined in Rule 32.2 of the Federal Rules of
10 Criminal Procedure and Title 21, United States Code, Section 853.

11 Rule 32.2 (b)(1) of the Federal Rules of Criminal Procedure provides that as soon as practicable
12 after entering a guilty verdict or accepting a plea of guilty or nolo contendere on any count in an
13 indictment or information with regard to which criminal forfeiture is sought, the court shall determine
14 what property is subject to forfeiture under the applicable statute. If forfeiture of specific property is
15 sought, the court shall determine whether the government has established the requisite nexus between
16 the property and the offense. If the government seeks a personal money judgment against the defendant,
17 the court shall determine the amount of money that the defendant will be ordered to pay. The court's
18 determination may be based on evidence already in the record, including any written plea agreement or,
19 if the forfeiture is contested, on evidence or information presented by the parties at a hearing after the
20 verdict or finding of guilt.

21 Pursuant to Rule 32.2(b)(2), if the court finds that property is subject to forfeiture, it shall
22 promptly enter a preliminary order of forfeiture setting forth the amount of any money judgment or
23 directing the forfeiture of specific property without regard to any third party's interest in all or part of it.
24 Determining whether a third party has such an interest shall be deferred until any third party files a claim
25 in an ancillary proceeding under Rule 32.2(c).

26 Rule 32.2(b)(3) provides that the entry of a preliminary order of forfeiture authorizes the
27 Attorney General (or a designee) to seize the specific property subject to forfeiture; to conduct any
28 discovery the court considers proper in identifying, locating, or disposing of the property; and to

1 commence proceedings that comply with any statutes governing third-party rights.

2 Rule 32.2(b)(4) further provides that at sentencing - or at any time before sentencing if the
3 defendant consents - the order of forfeiture becomes final as to the defendant and shall be made part of
4 the sentence and included in the judgment. The court may include in the order of forfeiture conditions
5 reasonably necessary to preserve the property's value pending any appeal.

6 The United States has established the requisite nexus between the subject property and the
7 offenses to which the defendant admitted because the defendant admitted in his plea agreement that the
8 subject property was involved in the offenses, and the Forfeiture Money Judgment constitutes proceeds
9 from the offenses. Accordingly, the subject property and Forfeiture Money Judgment are subject to
10 forfeiture to the United States pursuant to Title 18, United States Code, Section 853.

11 Upon the issuance of a Preliminary Order of Forfeiture and pursuant to Title 21, United States
12 Code, Section 853(n), and Rule G(4)(a)(iv) of the Supplemental Rules for admiralty or Maritime Claims
13 and Asset Forfeiture Actions, the United States will publish on www.forfeiture.gov, a government
14 website, for at least thirty days, notice of this Order, notice of its intent to dispose of the property in such
15 manner as the Attorney General may direct and notice that any person, other than the defendant, having
16 or claiming a legal interest in the property must file a petition with the Court and serve a copy on Sara E.
17 Griswold, Assistant United States Attorney, 150 Almaden Boulevard, Suite 900, San Jose, CA 95113
18 and/or Karen Beausey, Assistant United States Attorney, 450 Golden Gate Ave., Box 36055, San
19 Francisco, CA 94102, within thirty (30) days of the final publication of notice or of receipt of actual
20 notice, whichever is earlier. This notice shall state that the petition shall be for a hearing to adjudicate
21 the validity of the petitioner's alleged interest in the property, shall be signed by the petitioner under
22 penalty of perjury and shall set forth the nature and extent of the petitioner's right, title or interest in the
23 forfeited property and any additional facts supporting the petitioner's claim and the relief sought. The
24 United States may also, to the extent practicable, provide direct written notice to any person known to
25 have alleged an interest in the property that is the subject of the Preliminary Order of Forfeiture, as a
26 substitute for published notice as to those persons so notified.


27 WHEREFORE, the United States respectfully requests that this Court enter a Preliminary Order
28 of Forfeiture which provides for the following:

- 1 a. entry of a Forfeiture Money Judgment in the amount of 456.00;
- 2 b. authorizes the forfeiture of the subject property to the United States;
- 3 b. directs the United States, through its appropriate agency, to seize the forfeited property
- 4 forthwith;
- 5 c. authorizes the government to conduct discovery in order to identify, locate or dispose of
- 6 property subject to forfeiture in accordance with Rule 32.2(b)(3) of the Federal Rules of Criminal
- 7 Procedure;
- 8 d. directs the United States to publish on a government website for at least thirty days,
- 9 notice of this Order, notice of the government's intent to dispose of the subject property in such manner
- 10 as the Attorney General may direct and provide notice that any person, other than the defendants, having
- 11 or claiming a legal interest in the subject property must file a petition with the Court and serve a copy on
- 12 government counsel within thirty (30) days of the final publication of notice or of receipt of actual
- 13 notice, whichever is earlier; and
- 14 e. provides that the Court to retain jurisdiction to enforce the Preliminary Order of
- 15 Forfeiture, and to amend it as necessary, pursuant to Federal Rule of Criminal Procedure 32.2(e).
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17 Dated: September 24, 2020

Respectfully submitted,

18 DAVID L. ANDERSON
United States Attorney

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20 KAREN BEAUSEY
21 Assistant United States Attorney
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that she is an employee of the Office of the United States Attorney for the Northern District of California and is a person of such age and discretion to be competent to serve papers. The undersigned further certifies that she caused a copy of the following documents:

- **APPLICATION OF THE UNITED STATES FOR A PRELIMINARY ORDER OF FORFEITURE; and**
- **[PROPOSED] PRELIMINARY ORDER OF FORFEITURE**

to be served this date via Electronic Case Filing Notification System upon the person(s) below at the place and address which is the last known address:

Severa Keith, Esq. Federal Public Defender 55 South Market St. Suite 820 San Jose, CA 95113 (Counsel for HOWARD)	
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I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge.

Executed this 25th day of September, 2020, at San Francisco, California.

/s/ Brenda Lukaitis
 BRENDALUKAITIS
 FSA Paralegal III/Asset Forfeiture Unit